

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:23-CV-559

DELBERT QUILLEN WARD, )  
Plaintiff, )  
v. )  
THE CITY OF RALEIGH, )  
Defendant. )  
\_\_\_\_\_  
)

**NOTICE OF REMOVAL**  
**28 U.S.C. § 1441(a)**

Pursuant to 28 U.S.C. §§ 1331, 1367, and 1441, Defendant, the City of Raleigh (the “City”), hereby removes this action from the General Court of Justice, Superior Court Division for Wake County, North Carolina to the United States District Court for the Eastern District of North Carolina. This action is being removed to this Court based on federal question jurisdiction.

In support of this Notice of Removal, the City states as follows:

1. On December 13, 2022, Plaintiff commenced this action by filing a Complaint against the City in the General Court of Justice, Superior Court Division for Wake County, North Carolina, file number 22-CVS-015172-910 (the “State Court Lawsuit”).
2. On September 12, 2023, the City was served with an Alias and Pluries Summons and copies of the Complaint and General Civil Action Cover Sheet in the State Court Lawsuit. True and accurate copies of these documents are attached hereto as Exhibits 1-3, respectively.
3. No further proceedings have occurred regarding the Complaint. The City has not served any Answer or other response to the Complaint, nor made any appearance, argument, or request for relief in the State Court Lawsuit.

4. The time to remove this action has not expired. This Notice of Removal is being filed within thirty (30) days of the City's receipt of a copy of the Complaint pursuant to 28 U.S.C. § 1446(b).

5. In the Complaint, Plaintiff purports to assert a claim against the City arising under the Fourth Amendment to the United States Constitution pursuant to 42 U.S.C. § 1983 (the "Federal Claim"). As a result, this Court has original jurisdiction pursuant to 28 U.S.C. § 1331, and the State Court Lawsuit may be removed by the City to this Court in accordance with 28 U.S.C. § 1441(a).

6. The Complaint also contains a claim based on state law. Plaintiff's state law claim is so related to, and forms a part of, the same case or controversy as presented by the Federal Claim, allowing the Court to exercise supplemental jurisdiction over such claim pursuant to 28 U.S.C. § 1337(a).

7. Removal to this Court's Western Division is proper under 28 U.S.C. § 1441(a) because the Complaint was filed in Wake County, North Carolina, which is within this Court's Western Division.

8. The City is promptly filing a Notice of Filing Removal with the Clerk of the Wake County Superior Court in accordance with 28 U.S.C. § 1446(d), thereby informing the state court and Plaintiff that the State Court Lawsuit is being removed. A true and accurate copy of the Notice of Filing Removal is attached hereto as Exhibit 4.

9. By removing this action from Wake County Superior Court, the City does not waive any defenses available to it and does not admit any of the allegations contained in the Complaint.

WHEREFORE, the City respectfully removes the State Court Lawsuit from the General Court of Justice, Superior Court Division for Wake County to this Court.

Respectfully submitted the 9<sup>th</sup> day of October 2023.

**CITY OF RALEIGH  
Karen Musgrave McDonald  
City Attorney**

/s/ Dorothy V. Kibler  
Dorothy V. Kibler  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:23-CV-559

DELBERT QUILLEN WARD, )  
                                )  
Plaintiff,                 )  
                                )  
v.                             )         **CERTIFICATE OF SERVICE**  
                                )  
THE CITY OF RALEIGH,     )  
                                )  
Defendant.                 )

I hereby certify that on the 9<sup>th</sup> day of October, 2023, I electronically filed the foregoing *Notice of Removal* with the Clerk of the Court using the CM/ECF system and that I served the attached document on all of the non CM/ECF participants who are parties to this action by depositing a copy hereof, postage prepaid, in the United States Mail, addressed as follows:

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*Attorneys for Plaintiff*

Respectfully submitted,

**CITY OF RALEIGH**  
**Karen Musgrave McDonald**  
**City Attorney**

/s/ Dorothy V. Kibler  
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